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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/043,153

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Phillip E. Morris

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11/15/2006

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EXAMINER

NGUYEN, TAM M

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/043,153	Applicant(s) MORRIS, PHILLIP E.	
	Examiner Tam Nguyen	Art Unit 3764	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 12-16, 21, 22, 25-33 and 37 is/are allowed.
- 6) ☒ Claim(s) 1, 9-11, 17-20, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 17-20, 23 and 24 remain rejected (see Paragraphs 1-3 of the last Office Action dated February 18, 2005).

### ***Claim Objections***

2. The corrections to the objections of claims 15 and 37 are accepted.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 11 remain rejected under 35 U.S.C. 102(a) as being anticipated by Cheng (6,338,355) (see Paragraphs 5 & 6 of the last Office Action).
4. Claims 17, 23 and 24 remain rejected under 35 U.S.C. 102(b) as being anticipated by Eschenbach (5,529,554) (see Paragraph 7 of the last Office Action).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 9 and 10 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng '356 in view of Bermal (6,488,130) (see Paragraphs 9 & 10 of the last Office Action).

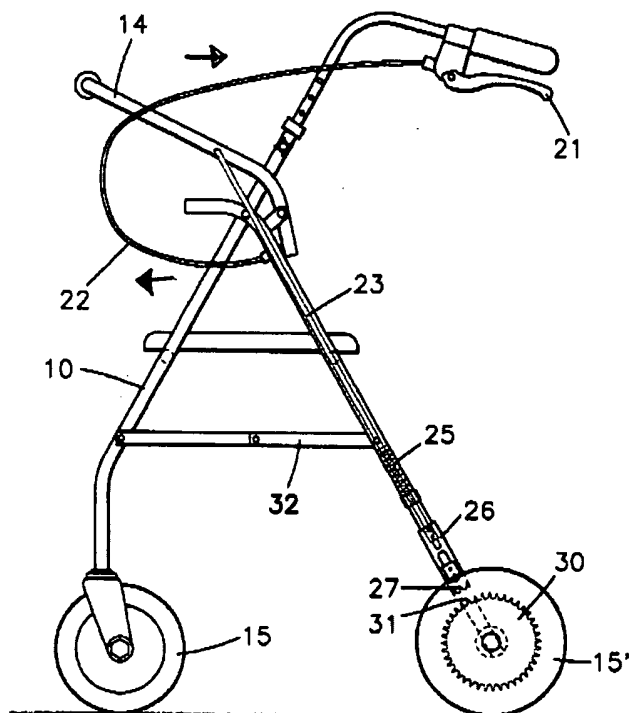
***Allowable Subject Matter***

6. Claims 2-8, 12-16, 21,22, 25-33 and 37 are allowed.

***Response to Arguments***

7. Applicant's arguments, regarding claims 1, 9 10, 11, 17, 23 and 24, filed August 24, 2005 have been fully considered but they are not persuasive.

8. As to claim 1, Cheng clearly discloses a pulling member (22) to disengage a braking member (27) from a rigid member (30) wherein the pulling member pulls both forward and rearward to disengage the braking member (see Fig. 3 below). Applicant argues that the wires transmit a downward force to an armrest (14) which causes transmission rods (23) to be displaced upward thereby releasing a brake. However, the pulling member must first pull forward and rearward to actuate the downward force. That is, the overall braking system may indeed cause a downward force that results in an upward displacement, but the system also includes a pulling member that pulls both forward and rearward when actuator 21 is compressed. The designation of a rear or forward direction is arbitrary and depends on one's perspective. Thus, if wheel 15' is designated the front wheel and wheel 15 is designated the rear wheel, then the cable is being pulled forward toward a user and rearward from the rigid member.



**Fig. 3**

9. As to claim 11, Cheng discloses that the pulling member includes a harness assembly (22). A harness is broadly defined as prefabricated wiring with terminals in Webster's Collegiate Dictionary, 10<sup>th</sup> Edition. 1997.

10. As to claims 17, 23 and 24, Eschenbach discloses a resisting member (108) that moves horizontally relative to the adjusting member (122). Applicant argues that that braking member closes concentrically around a brake drum. Examiner agrees that the braking member moves concentrically around the drum, but the concentric movement includes a horizontal component such that the braking member does move horizontally relative to the adjusting member.

11. As to claims 9 and 10, Bermel discloses a similar braking mechanism that is adjustable and includes a compression member that is compressed during braking. It is only this latter part of the braking mechanism that is substituted for Cheng's braking mechanism. That is, only Bermel's compression spring (62) and resistance band (70) is substituted in place of Cheng's resistance components (25,26) so that the resistance is now adjustable with Cheng's pull wires.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 13, 2006

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(JACKIE) TAN-UYEN HO  
PRIMARY EXAMINER  
11/13/06